



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 16, 2013

Mr. Mike Grayum, Executive Director  
Northwest Indian Fisheries Commission  
6730 Martin Way E.  
Olympia, WA 98516

**RE: Fish Consumption Rates and Water Quality Standards**

Dear Mr. Grayum:

Thank you for your March 11, 2013 letter, and for your shared interest in the development of Washington's surface water quality standards for toxics to protect human health. I appreciate your note of welcome and agree that we have an opportunity to reset and reengage on this important issue.

The Washington State Department of Ecology (Ecology) is involved in the beginning phase of rule-making to adopt human health criteria into the state's surface water quality standards, as well as another rule to develop implementation tools to help with situations where meeting water quality standards may take an extended period of time. The agency is currently in the "Notice of Intent" (CR101) phase of rule-making, which precedes the development of draft rule language, which will be subject to a formal public review process prior to adoption of the final rule.

Ecology is using this time to provide materials and discussion opportunities to the public that help facilitate discussions around these two interrelated and very complex rule-making efforts. I do not expect there will be full agreement among all parties, but I believe it is imperative that all viewpoints be understood by Ecology and the public. Your reference to the Association of Washington Business (AWB) submittal, and your statement of a differing viewpoint regarding risk levels, is part of this discussion. Understanding these diverse views is critical for the state's rule-making process. I do appreciate your efforts, and those of tribes, to reach out to business and municipalities to better understand their concerns.

I want to directly respond to three issues you raise in your letter. First, tribes have indicated they would like to discuss water quality standards with Ecology on a government-to-government basis, not as stakeholders. I am very interested in discussing the issues associated with the human health criteria and implementation process with the Commission as well as individual tribes on a government-to-government basis. I am looking forward to our discussions with tribal leadership and the Environmental Protection Agency on April 25, 2013.

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Second, you emphasize the importance of adopting an accurate and protective fish consumption rate in state standards in a timely fashion. I agree that this is important. We have data on populations in Washington that consume large amounts of fish and shellfish and will use that data in our decision making. The policy questions of whether or how anadromous fish, imported fish and shellfish, and other fish and shellfish beyond the geographic jurisdiction of the state of Washington are considered when examining this question are extremely challenging. We will all need to work together to discuss the ramifications of these and other decisions that must be made in the course of adopting human health criteria for Washington State. In order to have durable rules that work, we need to get it right – and that includes understanding and acknowledging the practical impacts of implementation.

Finally, you state that the tribes are very concerned about recent materials and discussions by stakeholders and Ecology, related to the application of the cancer risk rate in state standards. I know this is a sensitive topic. However, I feel this vetting of views and information is a necessary part of the public dialogue leading to good rule adoption. Stakeholders sometimes put significant efforts into submittal preparation. We appreciate their efforts and feel that it is a practice of good government to make these viewpoints directly available for others to understand.

Just as I welcome government-to-government consultation on these issues, I also encourage you and your staff, and tribal staff as well, to become involved in Ecology's Policy Forum discussions on the issues related to risk levels and the myriad legal, policy, and technical issues that will be discussed at the Forums and reflected in Ecology's rule-making effort. We also welcome direct tribal engagement with Ecology staff and management on these issues as we continue this process. It is difficult to discuss these issues with tribes if we do not have a venue for these discussions.

I appreciate your letter and continued engagement on this challenging set of policy decisions for Washington State, and look forward to our discussion on April 25, 2013.

If you have any questions, please contact Melissa Gildersleeve at (360) 407-6461 or [melissa.gildersleeve@ecy.wa.gov](mailto:melissa.gildersleeve@ecy.wa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Maia D. Bellon", followed by a horizontal line extending to the right.

Maia D. Bellon  
Director

cc: Dan Opalski, US EPA  
Tom Laurie, Ecology  
Melissa Gildersleeve, Ecology